

# Court of Appeals, State of Michigan

## ORDER

People of MI v James Gordon Boyce

Docket No. 267589

LC No. 04-079962-AR

E. Thomas Fitzgerald  
Presiding Judge

Kathleen Jansen

Deborah A. Servitto  
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), this Court orders that the November 3, 2005, order of the Genesee County Circuit Court, which affirmed the district court's denial of the prosecution's motion to bind defendant over on the charge of violating the Sex Offender Registry Act (SORA), MCL 28.729, is REVERSED. The evidence introduced at the preliminary examination was that one month prior to being booked for an attempted UDAA, defendant notified the police of his change of address as required by MCL 28.725. At the time of his arrest for the UDAA, the sex offender registry indicated defendant resided at 1538 Averill in the city of Flint. The testimony of Sergeant Sharon Dunbar established that this address did not exist. Moreover, at the time of his arrest, the police officers told the booking officer, Chimene Hill, that they confirmed defendant resided at 1530 Sunshine, which is in a trailer park and in close proximity to the Averill street. Given the close proximity between the streets of Averill and Sunshine, the district court inferred that defendant mistakenly provided the wrong address. Yet, a reasonable inference may also be drawn that defendant made a knowing exercise to report an incorrect address to frustrate the police and the public about his actual residence, especially given the fact defendant gave two other addresses for his residence and then only provided the non-existent Averill address when Officer Hill stated the other addresses did not match the sex offender registry.

Given these competing inferences, the district court was required to allow the factfinder at trial to resolve this question of fact. *People v Lockett (On Rehearing)*, 253 Mich App 651, 652-656; 659 NW2d 681 (2002). Because the district court erred in ruling that the prosecution failed to present evidence that defendant willfully reported an incorrect address and thus, abused its discretion in refusing to bind defendant over on the charge of violating the SORA, the circuit court erred in affirming this ruling. Accordingly, this matter is REMANDED to the circuit court for further proceedings not inconsistent with this order. The Court ~~retains~~ no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 20 2006

Date

*Sandra Schultz Mengel*  
Chief Clerk